

AMENDED IN SENATE AUGUST 29, 2000

AMENDED IN SENATE JUNE 22, 2000

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 502

Introduced by Assembly Member Wildman

February 18, 1999

An act to ~~amend Section 3502.5 of~~ *add Section 3502.6 to* the Government Code, relating to the Meyers-Milias-Brown Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 502, as amended, Wildman. Meyers-Milias-Brown Act: agency shop agreements.

The Meyers-Milias-Brown Act authorizes a local public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agency to negotiate an agency shop agreement. Under the act, an agency shop agreement may not apply to management, confidential, or supervisory employees.

This bill would ~~permit~~ *provide that, notwithstanding the above-described provisions of existing law,* an agency shop agreement ~~to~~ *may* apply to management, confidential, or supervisory employees upon the agreement of the public agency.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 3502.5 of the Government Code~~

SECTION 1. Section 3502.6 is added to the Government Code, to read:

3502.6. (a) Notwithstanding Sections 3502 and 3502.5, or any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization that represents management, confidential, or supervisory employees and that has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this section, “agency shop” means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of that organization for the duration of the agreement, or a period of three years from the effective date of the agreement, whichever comes first. However, any employee who is a member of a bona fide religion, body, or sect that has been historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. That employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three tax exempt funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate the funds, then to any fund exempt from taxation chosen

1 by the employee. Proof of these payments shall be made
2 on a monthly basis to the public agency as a condition of
3 continued exemption from the requirement of financial
4 support to the public employee organization.

5 (b) An agency shop provision in a memorandum of
6 understanding that is in effect may be rescinded by a
7 majority vote of all the employees in the unit covered by
8 the memorandum of understanding, provided that: (1) a
9 request for a vote is supported by a petition containing
10 the signatures of at least 30 percent of the employees in
11 the unit; (2) the vote is by secret ballot; and (3) the vote
12 may be taken at any time during the term of the
13 memorandum of understanding, but in no event shall
14 there be more than one vote taken during the term.
15 Notwithstanding the above, the public agency and the
16 recognized employee organization may negotiate, any by
17 mutual agreement provide for, an alternative procedure
18 or procedures regarding a vote on an agency shop
19 agreement.

20 (c) Every recognized employee organization that has
21 agreed to an agency shop provision pursuant to this
22 section shall keep an adequate itemized record of its
23 financial transactions and shall make available annually,
24 to the public agency with which the agency shop
25 provision was negotiated, and to the employees who are
26 members of the organization, within 60 days after the end
27 of its fiscal year, a detailed written financial report
28 thereof in the form of a balance sheet and an operating
29 statement, certified as to accuracy by its president and
30 treasurer or corresponding principal officer, or by a
31 certified public accountant. An employee organization
32 required to file financial reports under the federal
33 Labor-Management Disclosure Act of 1959 (29 U.S.C. Sec.
34 401 and following) covering employees governed by this
35 chapter, or required to file financial reports under
36 Section 3546.5, may satisfy the financial reporting
37 requirement of this section by providing the public
38 agency with a copy of the financial reports.

39 ~~is amended to read:~~

1 ~~3502.5. (a) Notwithstanding Section 3502, or any~~
2 ~~other provision of this chapter, or any other law, rule, or~~
3 ~~regulation, an agency shop agreement may be negotiated~~
4 ~~between a public agency and a recognized public~~
5 ~~employee organization that has been recognized as the~~
6 ~~exclusive or majority bargaining agent pursuant to~~
7 ~~reasonable rules and regulations, ordinances, and~~
8 ~~enactments, in accordance with this chapter. As used in~~
9 ~~this chapter, “agency shop” means an arrangement that~~
10 ~~requires an employee, as a condition of continued~~
11 ~~employment, either to join the recognized employee~~
12 ~~organization, or to pay the organization a service fee in~~
13 ~~an amount not to exceed the standard initiation fee,~~
14 ~~periodic dues, and general assessments of that~~
15 ~~organization for the duration of the agreement, or a~~
16 ~~period of three years from the effective date of the~~
17 ~~agreement, whichever comes first. However, any~~
18 ~~employee who is a member of a bona fide religion, body,~~
19 ~~or sect that has historically held conscientious objections~~
20 ~~to joining or financially supporting public employee~~
21 ~~organizations shall not be required to join or financially~~
22 ~~support any public employee organization as a condition~~
23 ~~of employment. That employee may be required, in lieu~~
24 ~~of periodic dues, initiation fees, or agency shop fees, to~~
25 ~~pay sums equal to the dues, initiation fees, or agency shop~~
26 ~~fees to a nonreligious, nonlabor charitable fund exempt~~
27 ~~from taxation under Section 501(c)(3) of the Internal~~
28 ~~Revenue Code, chosen by the employee from a list of at~~
29 ~~least three tax exempt funds, designated in a~~
30 ~~memorandum of understanding between the public~~
31 ~~agency and the public employee organization, or if the~~
32 ~~memorandum of understanding fails to designate the~~
33 ~~funds, then to any fund exempt from taxation chosen by~~
34 ~~the employee. Proof of payments shall be made on a~~
35 ~~monthly basis to the public agency as a condition of~~
36 ~~continued exemption from the requirement of financial~~
37 ~~support to the public employee organization.~~
38 ~~(b) An agency shop provision in a memorandum of~~
39 ~~understanding that is in effect may be rescinded by a~~
40 ~~majority vote of all the employees in the unit covered by~~

1 the memorandum of understanding, provided that: (1) a
2 request for such a vote is supported by a petition
3 containing the signatures of at least 30 percent of the
4 employees in the unit; (2) the vote is by secret ballot; (3)
5 the vote may be taken at any time during the term of the
6 memorandum of understanding, but in no event shall
7 there be more than one vote taken during the term.
8 Notwithstanding the above, the public agency and the
9 recognized employee organization may negotiate, and by
10 mutual agreement provide for, an alternative procedure
11 or procedures regarding a vote on an agency shop
12 agreement.

13 (c) An agency shop agreement shall not apply to
14 management, confidential, or supervisory employees;
15 except upon the agreement of the public agency.

16 (d) Every recognized employee organization that has
17 agreed to an agency shop provision shall keep an
18 adequate itemized record of its financial transactions and
19 shall make available annually, to the public agency with
20 which the agency shop provision was negotiated, and to
21 the employees who are members of the organization,
22 within 60 days after the end of its fiscal year, a detailed
23 written financial report thereof in the form of a balance
24 sheet and an operating statement, certified as to accuracy
25 by its president and treasurer or corresponding principal
26 officer, or by a certified public accountant. An employee
27 organization required to file financial reports under the
28 federal Labor-Management Disclosure Act of 1959 (29
29 U.S.C. Sec. 401 and following) covering employees
30 governed by this chapter, or required to file financial
31 reports under Section 3546.5, may satisfy the financial
32 reporting requirement of this section by providing the
33 public agency with a copy of the financial reports.